



## Legislation Text

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Resolution Authorizing the City Manager to Grant a Perpetual Restrictive Use Easement to the United States of America Over the Entirety of a Parcel of Real Property Located Near Langley Air Force Base (LAFB) Containing 2.53± Acres and Designated as Parcel on Tidewater Drive (LRSN 6000755) Adjacent to Langley Air Force Base (LAFB) as Part of the Department of Defense's (DoD) Readiness and Environmental Protection Integration (REPI) Program

### **Purpose/Background:**

In July 2015, the City entered into a Cooperative Agreement with the United States of America under the auspices of the Department of Defense (DoD) Readiness and Environmental Protection Integration (REPI) Program, acting by and through the Secretary of the Air Force ("Air Force"), in order to facilitate acquisition in fee simple by the City of designated properties within Accident Potential Zone I adjacent to Langley Air Force Base. The acquisitions are on a voluntary basis only. Under the Cooperative Agreement, as amended, the City agreed to acquire the properties and subsequently transfer the development rights in the form of perpetual restrictive use easements to the Air Force over the parcels acquired. The Air Force has agreed to pay the City the appraised value of the easement, and accordingly, these easements help the City offset the cost of acquisition of the parcels and protect Langley Air Force Base from incompatible encroachment.

This particular easement, if approved, would apply to a parcel known as Tidewater Drive (LRSN 6000755) purchased by the City in December of 2019.

### **Recommendation:**

Approve the Resolution

WHEREAS, in 2010, the City of Hampton (the "City") and Langley Air Force Base ("LAFB") undertook a collaborative planning effort known as the Joint Land Use Study ("JLUS") involving local communities, federal officials, residents, business owners, and the military to identify compatible land uses and growth management guidelines for parcels near to LAFB;

WHEREAS, the JLUS implementation plan recommended acquisition of property and/or property rights when necessary in the area immediately adjacent to LAFB known as the "Clear Zone" and "Accident Potential Zones" in order to limit incompatible development and encroachment near LAFB;

WHEREAS, in furtherance of these recommendations, since 2013, the City has partnered with the Commonwealth of Virginia through the Federal Action Contingency Trust ("FACT") Fund to acquire several parcels of property within and abutting the Clear Zone;

WHEREAS, in July 2015, the City entered into a Cooperative Agreement with the United States of America (the "Cooperative Agreement") under the auspices of the Department of Defense ("DoD") Readiness and Environmental Protection Integration ("REPI") Program, acting by and through the Secretary of the Air Force ("Air Force"), in order to facilitate acquisition in fee simple by the City of designated properties within Accident Potential Zone I on a voluntary basis and the subsequent transfer of development rights in the form of perpetual restrictive use easements to the Air Force over the parcels acquired;

WHEREAS, among other terms, the Air Force has agreed to pay certain transaction costs related to due diligence, including but not limited to title searches, environmental site assessments, and surveys, as well as the appraised value of the perpetual restrictive use easements, which will significantly offset the City's cost to purchase the identified parcels;

WHEREAS, in September 2016 and September of 2018, the City and Air Force entered into a First Amendment and a Second Amendment, respectively, to the Cooperative Agreement to further define the properties desired for acquisition and incorporate the actual funding amounts for upcoming fiscal years;

WHEREAS, pursuant to the Cooperative Agreement, as amended, the City acquired a parcel of property designated as "Parcel on Tidewater Drive" (LRSN 6000755) in December of 2019, which is within the Accident Potential Zone;

WHEREAS, in accordance with the Cooperative Agreement, the City desires to grant a perpetual restrictive use easement ("Easement") to the Air Force, which would prevent any activity, development, or use of the property that is inconsistent with the flying mission of LAFB;

WHEREAS, the Easement will automatically terminate by operation of law upon the closure of LAFB or upon written and recorded agreement of the parties;

WHEREAS, in accordance with section 15.2-1800 of the Code of Virginia, the City Council has held a duly advertised public hearing on the proposed Easement; and

WHEREAS, the City Council finds that granting the Easement is in the best interest of the City of Hampton and its citizens.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hampton, Virginia, as follows:

1. That it authorizes and directs the City Manager to execute and deliver the Easement as described above in substantially the same form and content as that which is attached and to execute any other documents as may be needed or desirable for the purposes identified herein in accordance with the Cooperative Agreement with the Air Force.